four or forty hours after the commission of a crime, a certain dog indicated by his conduct that he believed the scent of some microscopic particles supposed to have been dropped by the perpetrator of the crime, was identical, or closely resembled, the scent of the person who had been accused and put upon trial."

In the recent case of *People* v. *Pfanschmidt*,[16] the question as to the competency of "bloodhound evidence" again arose and was decided in the negative. The facts of the case are unique. A bloodhound was given the scent from a horse track, made thirty hours before, at the scene of the murder of which the defendant was accused. It took up the trail for a short distance and was then carried in an automobile until within short distances of crossroads where it was allowed to get out and again pick up the scent. The hound trailed to the defendant's buggy standing outside his stable, then went to his house and finally returned to the stable where he lay down behind a particular horse belonging to the defendant. The court in rejecting this evidence said: "Neither court nor jury can have any means of knowing why the dog does one thing or another in following in one direction instead of in another; that must be left to his instinct without knowing upon what it is based. The information obtainable on this subject scientific, legal, or otherwise, is not of such a character as to furnish any satisfactory basis or reason for the admission of this class of evidence."

Although the court reached the conclusion that "testimony as to the trailing of either man or animal should never be admitted in any case," it was greatly influenced by the fact that many of the various precautionary prerequisites of admissibility, which have been previously stated, had not been satisfied. The opinion cannot be cited as being flatly contrary to the sound rule which has been followed practically universally,[17] since the court was obviously controlled by considerations which concerned the weight rather than the admissibility of the evidence in question.

A. L. L.

HUSBAND AND WIFE—FRAUD ON MARITAL RIGHTS—There is little question that at common law a woman cannot on the eve of or in contemplation of marriage dispose of her property without the knowledge of her intended spouse so as to deprive him of his legal interest in it, because such a conveyance would be a fraud on his marital rights.[1] The reason for the rule is clear: since the husband was entitled to all his wife's personalty and to the rents, issues and profits from her realty during coverture and to curtesy after her death, a conveyance by the wife made just before marriage would rob him

[16] 104 N. E. Rep. 804 (Ill., 1914).

[17] Except in Brott v. State, *supra*, n. 12.

[1] Strathmore v. Bowes, 1 V. 22 (Eng. 1789); Downes v. Jennings, 32 Beav. 290 (Eng. 1863).

of valuable rights which should vest in him immediately upon the marriage. These rights in his wife's property were to compensate him for the liability which the law imposed on him for his wife's ante-nuptial debts, and any disposition by the prospective wife which intentionally deprived him, without his knowledge or consent, of valuable rights which he was entitled to expect to acquire at marriage, was clearly a fraud on his marital rights. Similarly, a conveyance of realty by a husband on the eve of marriage would be a fraud on the marital rights of the wife, because it would deprive her of her dower rights.[2] The essence of the fraud in these cases is found in the deprivation of one spouse of rights which would come into existence at marriage, and in the making a disposal of property just before and in contemplation of marriage which the law would not allow to be made at any time after marriage.

When, however, the husband attempts to dispose of his personal property just before marriage, an essentially different problem is presented, and the rule declaring void the conveyances previously considered should have no application. A wife on marriage receives in her husband's personalty no such interest as in his realty or as he in all her property, real and personal. True, she is entitled to support during coverture, to alimony in case of a divorce, and, if she survive him, to a widow's share in the personal property of which he dies possessed; but these rights cannot be considered as rights in his property which she would acquire upon marriage, and hence a transfer by him before marriage cannot be a fraud on her because it deprives her of no rights which she would otherwise acquire.[3]

The various Married Women's Property Acts passed during the last century have, it is submitted, practically abrogated the doctrine of ante-nuptial conveyances in fraud of the husband's marital rights as far as personal property is concerned, because under these acts a husband acquires in his wife's property no greater rights than she in his, and since either can freely dispose of his or her personal property after marriage,[4] either should be able to do so before. There are no English cases on this point since the passage of the Married Women's Act in 1882, but it is taken for granted by text writers that this is the result of that act.[5] This doctrine has not been accepted by all the States in this country, because in some cases it has been held that a woman cannot, even after the passage of these acts, transfer her property just before marriage without knowledge of her prospective husband.[6] A recent case which recognizes this principle and

[2] Leach v. Duvall, 8 Bush. 201 (Ky. 1871); Collins v. Collins, 98 Md. 473 (1904); Hach v. Rollins, 158 Mo. 182 (1900).

[3] M'Keogh v. M'Keogh, I. R. 4 Eq. 338 (Ireland, 1870).

[4] Robertson v. Robertson, 147 Ala. 311 (1906); Crofut v. Layton, 68 Conn. 91 (1896).

[5] 2 Vaizey on Settlements 1585; 1 Leading Cases in Equity 645; 2 Pom. Eq. Juris. §920.

[6] Duncan's App., 43 Pa. 67 (1862); Baker v. Jordan, 73 N. C. 145 (1875). *Contra:* Butler v. Butler, 21 Kan. 521 (1879); 7 N. D. 475 (1898).

draws a distinction between conveyances before and after marriage is *Windolph* v. *Girard Trust Co.*,[7] where a deed by a married woman of her separate estate to trustees to hold for her for life and at her death to distribute among certain beneficiaries, was held valid although its effect was to deprive the husband of the share to which he would have been entitled had she died possessed of this property. Justice Mestrezat, in discussing the rights of a wife in her separate property, held: "She may sell her personal property, give it away, or make any other disposition of it she desires during her life and he cannot complain, for the all-sufficient reason that he has no interest in the property. She is the owner and has absolute control over it and hence in disposing of it during life she infringes no property or other right of her husband. He does not sustain the relation of creditor to his wife. If she does not die vested of it, he can never acquire any interest in the property. It is manifest, therefore, that having no right or interest in the property as husband, there are no marital rights of which he can be defrauded by his wife's disposal of the property during life by gift or otherwise. . . . The present case is not a secret voluntary conveyance of her property by a party in contemplation of marriage without the consent of her husband. That was declared to be a fraud upon the marital rights of the other party, and, of course, avoided the transfer of the property as to him."

It is submitted that this decision is correct on its facts, but that the distinction which the court attempted to draw between transfers before and after marriage is unsound. The arguments advanced to support the disposition after marriage apply with equal force to a disposition before marriage; in neither case should the transfer be set aside, because in neither case is there any right which is injured.

T. R. Jr.

WILLS—DEPENDENT RELATIVE REVOCATION—The interesting question of dependent relative revocation was brought up in a recent Pennsylvania decision.[1] In that case the testator, believing that his estate would be rather small deemed the residue a suitable gift for his executors and so willed, but later, having ascertained that after the payment of debts and legacies, there would be a residue of more than $150,000, he wrote a codicil, within thirty days of his death, in which he bequeathed the residue to a charity, adding these words: "In order to carry out the foregoing bequest, clause No. 29 of my will, giving the residue to my executors is hereby abrogated." The executors contended that the revocation was dependent upon the fulfillment of the bequest, but the court took the view of the heirs that where a bequest with revocation of inconsistent be-

[7] 245 Pa. 349 (1914).

[1] Melville's Estate, 245 Pa. 318 (1914).